

SAFeR:

An Approach That is Right for the Moment

September 2020



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As the current grant cycle comes to an end, we find ourselves at the crossroads of two powerful forces: one, a global pandemic that has confined many people to their homes, and the other, a national racial justice uprising that has drawn millions of people out into the streets. These combined forces have simultaneously contributed to a surge in domestic violence and an erosion of confidence in the efficacy and ethics of the various legal responses to it.

At the time of this writing, the U.S. is experiencing record high rates of COVID-19 infections and pandemic-related deaths. Many parts of the country are still subject to some form of shelter-in-place order – essentially sequestering many victims of abuse with abusers – isolating them from family and friends – increasing their child care, home-schooling, and parenting responsibilities – and forcing many out of work, without the resources they need to keep themselves and their children safe. In some cases, survivors have been forced *into* work as front-line responders or essential workers – increasing their risk of exposure to COVID-19 and adding to parental stress.

At the same time, many institutions to which victims often turn for help – courts, law enforcement, shelters, and social services – are also strained. Many have reduced operations, curtailing services to emergencies or delivering what services they can online, while putting off the rest until the immediate crisis is over.

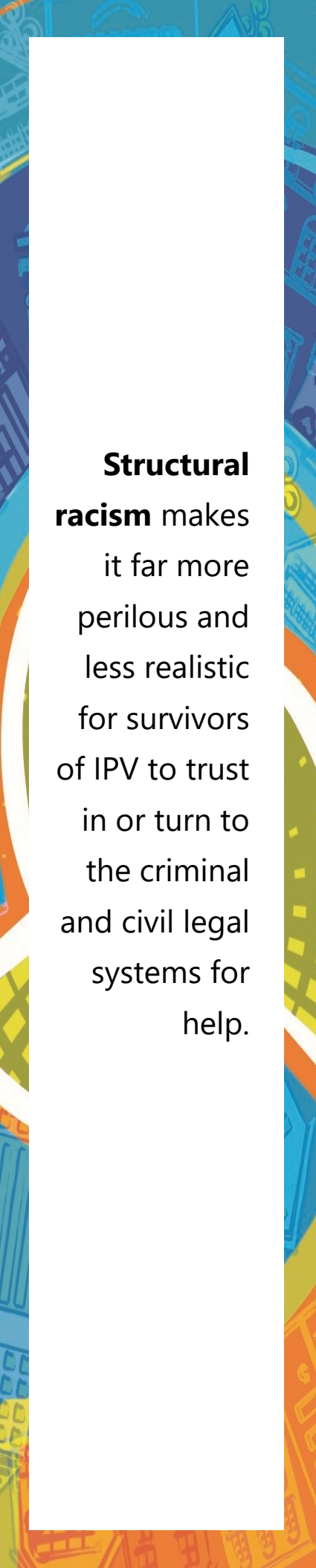
SAFeR calls on professionals to:

Screen for IPV in every case.

Assess the full nature and context of any IPV detected.

Focus on the effects of IPV.

Respond to people's lived experience of IPV.



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The healthcare crisis is also aggravating other stressors of everyday life, such as poverty, homelessness, physical and mental health challenges, chemical dependency, immigration instability, and educational disparities. The rippling effects of COVID-19 are perhaps most pronounced – and least apparent – among marginalized people and communities of color who experience disproportionate rates of intimate partner violence (IPV) and co-occurring problems *even without* the added concerns of a global pandemic.

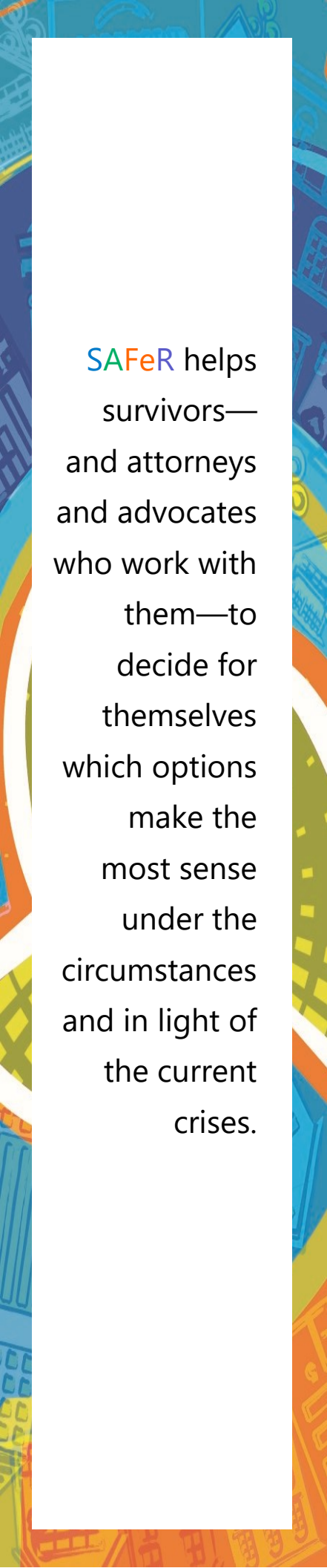
The social unrest following the murder of George Floyd – and the alarming number of police shootings since then – have heightened these concerns. They have brought attention to state violence against Black, indigenous, and other people of color. Months of mass protests across the country have renewed long-standing demands to end mass incarceration and address deeply entrenched race and gender-based economic, health, and educational disparities. Structural racism makes it far more perilous – and much less realistic – for survivors to trust in or turn to the criminal and civil legal systems for help. Having fewer formal help-seeking options makes survivors and children more vulnerable to abuse.

These reverberations have prompted us to take a hard look at our work – to ask ourselves difficult questions about how responsive SAFeR is to survivors' real life experience of IPV and how it might contribute to (or potentially undermine) the safety and well-being of battered parents and children across all sectors of society. In the face of widespread distress, uncertainty, and insecurity – at home, in the streets, along the border, and within our social and legal institutions – we believe that SAFeR is right for the moment.

SAFeR is right for the moment because it is rooted in survivors' lived experience. It recognizes that no two cases are the same; that IPV is enacted and endured by different people in different ways with very different consequences. By laying out a systematic approach to IPV, SAFeR calls on practitioners to examine the experience of IPV in its individual, social, and cultural context. It asks: *"What is happening to you?"* – *"Where is that coming from and what problems does it create for you?"* – *"What do you need to manage all that?"* SAFeR specifically directs practitioners to inquire about how IPV interferes with survivors' access to healthcare; how it impacts and is impacted by their social and cultural connections; how it influences their employment and immigration status; how it constrains their help-seeking efforts. In this way, SAFeR accounts for what is really going on – pandemic and all – racial injustice and all – economic crisis and all.

SAFeR is right for the moment because it resists assumptions. It doesn't guess whether IPV is an issue in a case. It directs practitioners to find out. SAFeR doesn't presuppose that IPV is of a certain type or character. It guides practitioners to search that out – to understand how the person responsible for IPV might be using the surrounding circumstances of the pandemic, or the economic downturn, or racial unrest, or some combination of those conditions, to further the abuse. SAFeR does not assume IPV has a predetermined impact on children, parenting, or the co-parenting relationship. It implores practitioners to explore that – and to recognize how the pandemic, economic crisis, and racial unrest might exacerbate those impacts. SAFeR does not assume that children innately benefit from or are harmed by relationships with parents who commit or who are subjected to IPV. It doesn't assume what survivors and children

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need by way of parenting plans, or what sort of state involvement, if any, is necessary to establish a plan. SAFeR drives practitioners to investigate these questions – and to consider how the surrounding economic, social, and cultural realities support or undermine survivors’ needs and options.

SAFeR is right for the moment because it does not jump to premature conclusions about what should be done to address IPV. It doesn’t tell survivors to call the police, or seek a protection order, or go to shelter, or flee with the children. Nor does it make judgments about survivors’ choices to do or refrain from doing any of those things. Instead, SAFeR helps survivors – and the attorneys and advocates who work with them – decide for themselves which options make the most sense under the circumstances and in light of the current crises. Likewise, SAFeR doesn’t offer preordained parenting solutions in IPV cases. That’s because what might work in one case might be completely unworkable in another. Instead, SAFeR guides practitioners to craft parenting arrangements that address people’s lived experience in all its complexity and to correct the unique problems that IPV creates for individual battered parents and children.

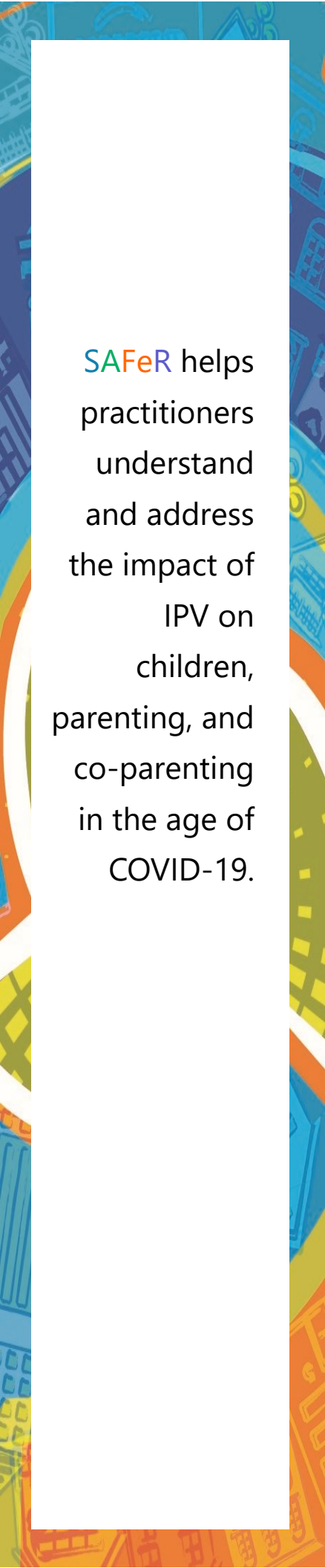
SAFeR is right for the moment because it is culturally cognizant. It recognizes that IPV does not occur in a vacuum, but is produced, shaped, and managed according to social, cultural, and gender norms and standards, traditions and expectations, beliefs and values, advantages and disadvantages, opportunities and inequities. SAFeR calls on practitioners to consider how IPV functions within communities and cultures that do not organize family life or practice parenting all in the same way. SAFeR understands that IPV isn’t only about what happens inside the home, but also outside – on the street, in the community, along the border, at

schools, hospitals, churches and workplaces, in the media, and within state institutions, including the criminal and civil legal systems. SAFeR reminds practitioners to refrain from imposing their own cultural attitudes, assumptions, biases and beliefs in IPV cases. Instead, it encourages practitioners to approach IPV with humility and to seek to understand people's experience of IPV in its unique social and cultural context.

SAFeR is right for the moment because it has broad applicability. It can be used by people from all disciplines, including advocates, attorneys, mediators, judges, guardians ad litem, custody evaluators, and others involved in the family court system. It can be used across family court settings, including protection order matters, paternity cases, child support proceedings, and custody cases – and in various processes within those settings, such as mediations, GAL investigations, custody evaluations, discovery, hearings, and appeals. SAFeR can build and support a range of critical activities, including interviewing, counseling, and negotiation, pleading and motion practice, report writing, trial practice, judgment making, and order crafting. It can be used in-person or remotely. SAFeR's broad application crosses age, race, religion, class, and culture. Because SAFeR is focused on individual experiences of IPV, it doesn't draw in or upon practitioners' ideologies. Instead, it bridges the ideological divide that fractures the family court system. It spans experience levels, making it useful to newer practitioners and seasoned professionals alike.

SAFeR is right for the moment because it helps survivors meet the moment. It supports survivors' informed and autonomous decisionmaking at critical junctures, including whether, when, how, and to whom to report IPV; whether to utilize the legal system at all, and, if so, what parts of the system and on what terms. SAFeR supports survivors' deliberation about

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what resolution processes within various parts of the legal system to engage, what relief to seek, what compromises (if any) to make, and whether and how to enforce legal rights and court orders. At a time of great stress, when social and institutional support is less readily available, SAFeR offers survivors a systematic way to assess their options, establish their own priorities, and make the best choices they can to manage their own safety, the safety of their children, and parenting in light of their own particular experience of IPV.

SAFeR is right for the moment because it helps practitioners meet the moment. It supports professional consideration of IPV within a larger legal landscape that is itself struggling to respond to the pandemic and structural inequities within its ranks. SAFeR offers a systematic approach – one that prompts practitioners to see how people who engage in coercive control capitalize on the pandemic, the economic downturn, the disruption to work and school life, the increased demands of childcare, and the racial unrest to cause further harm to survivors and children. SAFeR helps practitioners understand and address the impact of IPV on children, parenting, and co-parenting in the age of COVID-19. It helps them see how reduced or remote court operations brought on by the pandemic can both increase risk for IPV and expand opportunities for survivor safety. SAFeR helps practitioners appreciate how state violence and racial disparity reduce public trust in and access to the legal system. It demonstrates how virtual GAL investigations, custody evaluations, and child protection case work can impede practitioners' ability to fully understand people's real-life experience of IPV and its effect on survivors and children. In this way, SAFeR prepares practitioners to redouble their efforts to tend to the safety and wellbeing of survivors and children in ways they've never considered before.

SAFeR is right for the moment because it demands that the legal system meet the moment. It implores legal institutions to account for ways that “business as usual” can perpetuate IPV and engender distrust – by prioritizing “official” evidence of IPV over survivor accounts, using the threat of family separation through immigration or child welfare actions, or forcing unification through improper application of “friendly parent” provisions and theories about gatekeeping, parental alienation, and resist/refuse dynamics. SAFeR challenges these institutional failings by providing tools to examine survivor narratives of IPV and generate solutions that protect and repair rather than harm or punish.

While SAFeR is right for the moment, it has not yet achieved its full potential. Somewhere between 8.2 and 15.5 million American children live in families in which IPV occurs each year.¹ About 90% of them directly observe the abuse,² roughly half intervene in a violent episode by yelling at their parents to stop.³ Sometimes, they try to get away, and just about a quarter of them call for help.⁴ Millions of these kids are drawn into the legal system when one of their parents is charged with a crime, or decides to separate,⁵ or pursues a protection order,⁶ or files for child support.⁷ The fate of many of these children and their battered parents is decided by people who hardly know them, acting within a legal system that is poorly organized to consistently and appropriately respond to their real life experiences of IPV.

Although we have provided SAFeR training to more than 20,000 family court professionals and reached more than 75,000 others through our website, webinar offerings, videos, site visits, and routine technical assistance, we have reached only a fraction of family court practitioners who are called on to intercede in these difficult cases. As courts begin to

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re-open in the wake of the coronavirus pandemic and reconsider their role in people's lives in the face of record case backlogs and ongoing civil unrest, SAFeR can help courts assess the kind and level of resources needed in cases involving IPV. Until SAFeR is broadly implemented in communities across the country – until it becomes the gold standard for IPV training for all family court professionals – SAFeR will not successfully tip the scales towards safety for battered parents and children in family court.

End Notes

¹ Hanby, S., Finkelhor, D., Turner, H. and Ormrod, R. 2011. *Children's Exposure to Intimate Partner Violence and Other Family Violence*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention; McDonald, R., Jouriles, E.N., Ramisetty-Mikler, S., Caetano, R., and Green, C.E. 2006. Estimating the number of children living in partner-violent families. *Journal of Family Psychology* 20(1):137-142.

² Hanby, et al., supra.

³ Id.

⁴ Id.

⁵ Approximately 5 million domestic relations cases are filed each year. See, R. LaFountain, S. Strickland, R. Schaufler, K. Holt, & K. Lewis. *Examining the Work of State Courts: An Overview of 2013 State Court Caseloads* (National Center for State Courts 2015).

⁶ Reliable statistics regarding the number of civil protection orders issued each year throughout the U.S. are not publicly available. Nevertheless, the National Center for State Courts estimates that between 850,000 and 950,000 petitions were filed in 2015. See, <http://www.courtstatistics.org/>. Findings from an earlier survey suggest that roughly 20% of the 1.5 million people who experience domestic violence each year obtain civil protection orders. Tjaden, P. and Thoennes, N. 2000. *Extent, Nature and Consequences of Intimate Partner Violence: Findings from the National Violence Against Women Survey*. Washington, DC: U.S. Department of Justice, National Institute of Justice and the Centers for Disease Control and Prevention.

⁷ Approximately 6.5 million child support cases are initiated each year. Solomon-Fears, C. 2016. *Child Support: An Overview of Census Bureau Data on Recipients*. Washington, DC: Congressional Research Service.



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